

Drafting Note: The term “certificate” should be substituted for the word “policy” throughout the outline of coverage where appropriate.

**37.15(4)** Notice regarding policies or certificates which are not Medicare supplement policies.

*a.* Any accident and sickness insurance policy or certificate, other than a Medicare supplement policy, a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C. Section 1395 et seq.), disability income policy, or other policy identified in 37.2(514D) issued for delivery in this state to persons eligible for Medicare shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds. The notice shall be in no less than 12-point type and shall contain the following language:

“THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company.”

*b.* Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in 37.15(4) “*a*” shall disclose, using the applicable statement in Appendix C, the extent to which the policy duplicates Medicare. The disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate.

**191—37.16(514D) Requirements for application forms and replacement coverage.**

**37.16(1)** Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements may be used.

*a.* Statements.

- (1) You do not need more than one Medicare supplement policy.
- (2) If you purchase this policy (certificate), you may want to evaluate your existing health coverage and decide if you need multiple coverages.
- (3) You may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.
- (4) The benefits and premiums under your Medicare supplement policy can be suspended, if requested, during your entitlement to benefits under Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your policy will be reinstituted if requested within 90 days of losing Medicaid eligibility.
- (5) Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program, including benefits as a Qualified Medicare Beneficiary (QMB) and a Specified Low-Income Medicare Beneficiary (SLMB).

*b.* Questions.

- (1) To the best of your knowledge do you have another Medicare supplement policy or certificate in force?
- (2) If so, with which company?
- (3) If so, do you intend to replace your current Medicare supplement policy with this policy (certificate)?

(4) Do you have any other health insurance coverage that provides benefits similar to this Medicare supplement policy?

1. If so, with which company?

2. What kind of policy?

(5) Are you covered for medical assistance through the state Medicaid program:

1. As a Specified Low-Income Medicare Beneficiary (SLMB)?

2. As a Qualified Medicare Beneficiary?

3. For any other Medicaid medical benefits?

**37.16(2)** Agents shall list any other health insurance policies they have sold to the applicant.

a. List policies sold which are still in force.

b. List policies sold in the past five years which are no longer in force.

**37.16(3)** In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant and acknowledged by the insurer, shall be returned to the applicant by the insurer upon delivery of the policy.

**37.16(4)** Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of such notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage.

**37.16(5)** The notice required by 37.16(4) for an issuer shall be provided in substantially the following form in no less than 12-point type:

**NOTICE TO APPLICANT REGARDING REPLACEMENT  
OF MEDICARE SUPPLEMENT INSURANCE**

[Insurance company's name and address]

**SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE**

According to [your application] [information you have furnished], you intend to terminate existing Medicare supplement insurance and replace it with a policy to be issued by [Company Name] Insurance Company. Your new policy will provide 30 days within which you may decide without cost whether you desire to keep the policy.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. If, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision, you should terminate your present Medicare Supplement coverage. You should evaluate the need for other accident and sickness coverage you have that may duplicate this policy.

**STATEMENT TO APPLICANT BY ISSUER, AGENT**

[BROKER OR OTHER REPRESENTATIVE]:

I have reviewed your current medical or health insurance coverage. To the best of my knowledge, this Medicare supplement policy will not duplicate your existing Medicare supplement coverage because you intend to terminate your existing Medicare supplement coverage. The replacement policy is being purchased for the following reason(s) (check one):

\_\_\_\_\_ Additional benefits.

\_\_\_\_\_ No change in benefits, but lower premiums.

\_\_\_\_\_ Fewer benefits and lower premiums.

\_\_\_\_\_ Other. (please specify)

If you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Do not cancel your present policy until you have received your new policy and are sure that you want to keep it.

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(Signature of Agent, Broker or Other Representative)\*

[Typed Name and Address of Issuer, Agent or Broker]

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(Applicant's Signature)

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(Date)

\*Signature not required for direct response sales.

**191—37.17(514D) Filing requirements for advertising.** An issuer shall provide a copy of any Medicare supplement advertisement intended for use in this state whether through written, radio or television medium to the commissioner of insurance of this state for review or approval by the commissioner to the extent it may be required under state law.

**191—37.18(514D) Standards for marketing.**

**37.18(1)** An issuer, directly or through its producers, shall:

- a. Establish marketing procedures to ensure that any comparison of policies by its agent or other producers will be fair and accurate.
- b. Establish marketing procedures to ensure excessive insurance is not sold or issued.
- c. Display prominently by type, stamp or other appropriate means, on the first page of the policy, the following:

“Notice to buyer: This policy may not cover all of your medical expenses.”

- d. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance.

- e. Establish auditable procedures for verifying compliance with this subrule.

- f. At solicitation, provide written notice to the prospective policyholder or certificate holder of the name, address, and telephone number of the senior insurance counseling program approved in Iowa by the commissioner of insurance. The written notice shall be in a form prescribed by the commissioner.

**37.18(2)** In addition to the practices prohibited in Iowa Code chapter 507B, the following acts and practices are prohibited:

- a. *Twisting.* Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.

*b. High-pressure tactics.* Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

*c. Cold-lead advertising.* Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

**37.18(3)** The terms “Medicare Supplement,” “Medigap,” “Medicare Wrap-Around” and words of similar import shall not be used unless the policy is issued in compliance with this chapter.

**191—37.19(514D) Appropriateness of recommended purchase and excessive insurance.**

**37.19(1)** In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

**37.19(2)** Any sale of Medicare supplement coverage that will provide an individual more than one Medicare supplement policy or certificate is prohibited.

**191—37.20(514D) Reporting of multiple policies.**

**37.20(1)** On or before March 1 of each year, an issuer shall report the following information for every individual resident of this state for which the issuer has in force more than one Medicare supplement policy or certificate:

- a.* Policy and certificate number, and
- b.* Date of issuance.

**37.20(2)** The items set forth above must be grouped by individual policyholder.

**191—37.21(514D) Prohibition against preexisting conditions, waiting periods, elimination periods and probationary periods in replacement policies or certificates.**

**37.21(1)** If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy or certificate to the extent such time was spent under the original policy.

**37.21(2)** If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate which has been in effect for at least six months, the replacing policy shall not provide any time period applicable to preexisting conditions, waiting periods, elimination periods and probationary periods.

**191—37.22(514D) Separability.** If any provisions of this chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

**191—37.23(514D) Prohibition against using SHIIP prepared materials.** The Senior Health Insurance Information Program (SHIIP) may prepare a consumer Medicare supplement insurance premium guide and benefits comparison guide. This guide and the SHIIP name or logo shall not be used in the solicitation or sale of health insurance products. Violation of this provision shall be deemed an unfair trade practice under Iowa Code chapter 507B.

**191—37.24(514D) Guaranteed issue for eligible persons.**

**37.24(1)** Eligible persons are those individuals described in subrule 37.24(2) who, subject to 37.24(2) “b,” apply to enroll under the policy not later than 63 days after the date of the termination of enrollment described in subrule 37.24(2) and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.

With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in subrule 37.24(3) that is offered and is available for issuance to new enrollees by issuer, shall not discriminate in the pricing of such Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such Medicare supplement policy.

**37.24(2)** An eligible person is an individual described in any of the following paragraphs:

a. The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement benefits under Medicare and the plan terminates or the plan ceases to provide some or all such supplemental health benefits to the individual;

b. The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare and any of the following circumstances apply, or the individual is 65 years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under Section 1894 of the Social Security Act and circumstances exist similar to those described below that would permit discontinuance of the individual’s enrollment with such a provider if such individual were enrolled in a Medicare+Choice plan:

(1) The certification of the organization or plan under this part has been terminated or the organization or plan has notified the individual of an impending termination of such certification; or

(2) The organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides or has notified the individual of an impending termination or discontinuance of such plan; or

(3) The individual is no longer eligible to elect the plan because of a change in the individual’s place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual’s enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856), or the plan is terminated for all individuals within a residence area; or

(4) The individual demonstrates, in accordance with guidelines established by the Secretary, that:

1. The organization offering the plan substantially violated a material provision of the organization’s contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or

2. The organization, or agent or other entity acting on the organization’s behalf, materially misrepresented the plan’s provisions in marketing the plan to the individual; or

(5) An individual described in subrule 37.24(1) may elect to apply paragraph 37.24(2) “b” by substituting for the date of termination of enrollment the date on which the individual was notified by the Medicare+Choice organization of the impending termination or discontinuance of the Medicare+Choice plan it offers in the area in which the individual resides, but only if the individual disenrolls from the plan as a result of such notification.

In the case of an individual making the election in subparagraph 37.24(2) “b” (5), the issuer involved shall accept the application that the individual submitted before the date of the termination of enrollment, but the coverage under subrule 37.24(1) shall only become effective upon termination of coverage under the Medicare+Choice plan involved; or

(6) The individual meets such other exceptional conditions as the Secretary may provide;

c. The individual is enrolled with:

(1) An eligible organization under a contract under Section 1876 (Medicare risk or cost); or  
(2) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999; or

(3) An organization operating under an agreement under Section 1833(a)(1)(A) (health care payment plan); or

(4) An organization under Medicare Select policy; and

(5) The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under paragraph 37.24(2) "b";

d. The individual is enrolled under a Medicare supplement policy and the enrollment ceases because:

(1) Of the insolvency of the issuer or bankruptcy of the nonissuer organization; or

(2) The issuer of the policy substantially violated a material provision of the policy; or

(3) The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual;

e. The individual was enrolled under a Medicare supplement policy and terminated enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, any eligible organization under a contract under Section 1876 (Medicare risk or cost), any similar organization operating under demonstration project authority, any PACE program under Section 1894 of the Social Security Act, an organization under an agreement under Section 1833(a)(1)(A) (health care prepayment plan), or a Medicare Select policy; and the subsequent enrollment under 37.24(2) "e" was terminated by the enrollee during any period within the first 12 months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under Section 1851(e) of the federal Social Security Act); or

f. The individual upon first becoming enrolled for benefits under Part B of Medicare at age 65 or older enrolls in a Medicare+Choice plan under Part C of Medicare or in a PACE program under Section 1894 and disenrolls from the plan or program by no later than 12 months after the effective date of enrollment.

**37.24(3)** Products to which eligible persons are entitled. The Medicare supplement policy to which eligible persons are entitled under:

a. Subrule 37.24(2), paragraphs "a," "b," "c," and "d," is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F offered by any issuer.

b. Paragraph 37.24(2) "e" is the same Medicare supplement policy in which the individual was most recently previously enrolled if available from the same issuer, or, if not so available, a policy described in paragraph 37.24(3) "a."

c. Paragraph 37.24(2) "f" shall include any Medicare supplement policy offered by any issuer.

**37.24(4)** Notification of provisions.

a. At the time of an event described in subrule 37.24(2) because of which an individual loses coverage or benefits due to the termination or change of a contract or agreement, policy, or plan, the organization that terminates or changes the contract or agreement, the issuer terminating or changing the policy, or the administrator of the plan being terminated or changed, respectively, shall notify the individual of the individual's rights under this rule and of the obligations of issuers of Medicare supplement policies under subrule 37.24(1). Such notice shall be communicated contemporaneously with the notification of termination.

b. At the time of an event described in subrule 37.24(2) because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of the individual's rights under this rule and of the obligations of issuers of Medicare supplement policies under subrule 37.24(1). Such notice shall be communicated within ten working days of the issuer receiving notification of the disenrollment.

Appendix A

MEDICARE SUPPLEMENT REFUND CALCULATION FORM  
FOR CALENDAR YEAR \_\_\_\_\_

TYPE \_\_\_\_\_ SMSBP (w) \_\_\_\_\_

For the State of \_\_\_\_\_

Company Name \_\_\_\_\_

NAIC Group Code \_\_\_\_\_ NAIC Company Code \_\_\_\_\_

Person Completing This Exhibit \_\_\_\_\_

Title \_\_\_\_\_ Telephone Number \_\_\_\_\_

	(a) Earned <u>Premium (x)</u>	(b) Incurred <u>Claims (y)</u>
1. Current Year's Experience		
a. Total (all policy years)		
b. Current Year's issues (z)		
c. Net (for reporting purposes = 1a - 1b)	_____	_____
2. Past Year's Experience (All Policy Years)	_____	_____
3. Total Experience (Net Current Year + Past Years' Experience)	_____	_____
4. Refunds last year (Excluding Interest)		
5. Previous Since Inception (Excluding Interest)		
6. Refunds Since Inception (Excluding Interest)		
7. Benchmark Ratio Since Inception (SEE WORKSHEET FOR RATIO 1)		
8. Experienced Ratio Since Inception		
Total Actual Incurred Claims (Line 3, Col. b) = Ratio 2		
Total Earned Premium (Line 3, Col. a) - Refunds Since Inception (Line 6)		
9. Life Years Exposed Since Inception _____		
If the Experienced Ratio is less than the Benchmark Ratio, and there are more than 500 life years exposure, then proceed to calculation of refund.		
10. Tolerance Permitted (obtained from credibility table) _____		

Appendix A

MEDICARE SUPPLEMENT REFUND CALCULATION FORM  
FOR CALENDAR YEAR \_\_\_\_\_

TYPE \_\_\_\_\_ SMSBP (w) \_\_\_\_\_  
For the State of \_\_\_\_\_  
Company Name \_\_\_\_\_  
NAIC Group Code \_\_\_\_\_ NAIC Company Code \_\_\_\_\_

11. Adjustment to incurred Claims for Credibility

Ratio 3 = Ratio 2 + Tolerance

If Ratio 3 is more than benchmark ratio (ratio 1), a refund or credit to premium is not required.

If Ratio is less than the benchmark ratio, then proceed.

12. Adjusted Incurred Claims =

[Total Earned Premiums (Line 3, Col. a) - Refunds Since Inception (Line 6)] x Ratio 3 (Line 11)

13. Refund = Total Earned Premiums (Line 3, Col. a) -  
Refunds Since Inception (Line 6) -

Adjusted Incurred Claims (Line 12)  
Benchmark Ratio (Ratio 1)

If the amount on Line 13 is less than .005 times the annualized premium in force as of December 31 of the reporting year, then no refund is made. Otherwise, the amount on Line 13 is to be refunded or credited, and a description of the refund and/or credit against premiums to be used must be attached to this form.

Medicare Supplement Credibility Table

<u>Life Years Exposed</u> <u>Since Inception</u>	<u>Tolerance</u>
10,000 +	0.0%
5,000 - 9,999	5.0%
2,500 - 4,999	7.5%
1,000 - 2,499	10.0%
500 - 999	15.0%

If less than 500, no credibility



Appendix A

MEDICARE SUPPLEMENT REFUND CALCULATION FORM  
FOR CALENDAR YEAR \_\_\_\_\_

TYPE(1) \_\_\_\_\_ SMSBP(2) \_\_\_\_\_  
For the State of \_\_\_\_\_  
Company Name \_\_\_\_\_  
NAIC Group Code \_\_\_\_\_ NAIC Company Code \_\_\_\_\_

- (1) Individual, Group, Individual Medicare Select, or Group Medicare Select
- (2) “SMSBP” Standardized Medicare Supplement Benefit Plan
- (3) Includes Modal loadings and fees charged
- (4) Excludes Active Life Reserves.
- (5) This is to be used as “Issue Year Earned Premium” for Year 1 of next year’s  
“Worksheet for Calculation of Benchmark Ratios”

Icertify that the above information and calculations are true and accurate to the best of my knowledge and belief.

\_\_\_\_\_  
Signature  
  
\_\_\_\_\_  
Name - Please Type  
  
\_\_\_\_\_  
Title  
  
\_\_\_\_\_  
Date